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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,715	08/10/2001	Johannes Petrus Verduijn	98M037	4297

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EXAMINER

SAMPLE, DAVID R

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/744,715	<b>Applicant(s)</b> VERDUIJN ET AL.	
	<b>Examiner</b> David Sample	<b>Art Unit</b> 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 8,10-18,22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Any rejections and/or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 102***

Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Elliott, Jr. (US Patent No. 4,164,551).

Elliott, Jr. discloses a method of making a zeolite in which a zeolite suspension is separated from its mother liquor by filtration, and subsequently washed. See col. 2, lines 10-25. The zeolite product obtained at this part in the process of Elliott, Jr. corresponds to the large particle fraction referred to in the present claims.

The mother liquor and wash water contains finely divided particles of a zeolite. Id. The finely divided zeolite product contained in the mother liquor/wash water corresponds to the smaller particle size referred to in the present claims.

The reference differs from the present claims by failing to disclose that the finely divided portion of zeolite is "suitable for use as seed crystals." However, the finely divided product of Elliott, Jr. is formed in a manner identical to the instant process. Since, the fine zeolite product of the portion is formed in a manner identical to the present claims, it is assumed that the fine zeolite of the reference is "suitable for use as seed crystals." See MPEP 2112.

Claims 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Verduijn et al. (US 5,672,331).

At the outset, it should be noted that this rejection is over a different "Verduijn" reference than the reference employed in the previous action.

Verduijn et al. discloses a MFI zeolite that is employed as a seed for the formation of MFI. See the abstract.

Claims 19-21 are a product-by-process claim. For purposes of examination, product-by-process claims are not limited to the manipulation of the recited steps, only the structure implied by the steps. See MPEP 2113.

In the present case, the recited steps of claim 19 imply a structure of an MFI zeolite having a small size suitable for use as a seed. As described above, the reference discloses such a product.

Claims 20 and 21 imply a structure of a zeolite product. The reference discloses such a product. See the abstract.

### ***Response to Arguments***

Applicant's arguments filed December 29, 2003 have been fully considered but they are not persuasive.

#### **Rejection over Elliot, Jr.**

Applicants assert that Elliot, Jr. relates to the formation of zeolite Y and does not disclose or suggest the formation of seed particles. This assertion is true, however, it is not persuasive with respect to the present claims. As noted above, the reference discloses the separation of a

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larger particle size zeolite from a smaller sized zeolite. The smaller sized particles are recovered in the sense that they are separated from the larger particles and a mother liquor is obtained containing the smaller particles therein.

Applicants' arguments with respect to claims 8 and 10 are deemed persuasive, and the rejection is hereby withdrawn.

Rejection over Verduijn (WO 97/03020)

Applicants' arguments over Verduijn (WO 97/03020) are deemed persuasive and the rejection is withdrawn.

***Allowable Subject Matter***

Claims 8, 10-18, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

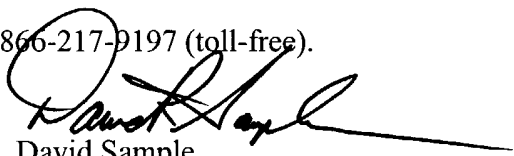
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell can be reached on (572)272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Sample  
Primary Examiner  
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